

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

GREGORY B. CRAIG,

Defendant.

:
:
:
:
:
:
:
:

No. 1:19-CR-00125 (ABJ)

**GOVERNMENT'S RESPONSE TO COURT'S 8/9/19 REQUEST FOR
PROPOSED INSTRUCTION REGARDING DUTY**

The United States hereby responds to this Court's August 9, 2019, request that the parties propose an instruction for the Court to provide the jury regarding the duty to disclose that the Court found as a matter of law. The following proposed instruction is based on the Court's Memorandum Opinion and Order (ECF No. 85), and the Foreign Agents Registration Act, 22 U.S.C. § 612(a):

DUTY TO DISCLOSE

A duty to disclose is a requirement that a person not intentionally withhold or omit information material to a decision. It is a requirement that a person, when posed specific questions, answer those questions truthfully and completely, without intentionally omitting information called for by the question.

The Foreign Agents Registration Act (FARA) is a federal statute that requires anyone who acts as an agent of a foreign principal, to include a foreign government or a foreign person, to register with the FARA Unit of the Department of Justice. Any person in the United States who is involved in political activities, including any activity that the person intends to, in any way influence any section of the public, or acts within the United States as a public relations counsel, publicity agent, information-service employee, or political consultant, has a duty to disclose information concerning that representation to the Department of Justice under FARA. Registering under FARA involves completing a form that asks specific questions about the work for a foreign principal. Persons required to register under FARA have a legal duty to disclose the information asked for by the form.

The FARA Unit may pose specific questions to a person to decide whether he has

to register, and, if the person chooses to respond to those questions, he has a legal duty to disclose information material to the decision. Similarly, a person who tries to convince the FARA Unit that he does not have to register also has a legal duty to disclose information material to the decision.

The government respectfully suggests that such an instruction could precede the instruction enumerating the elements of the offense already provided by the parties, and that such an instruction obviates the need to specify within the elements of the offense that the duty is “imposed by statute, regulation, or government form.” *See e.g.*, United States’ Proposed Instruction for Count One, ECF No. 79-1 (proposing that jury be instructed that “there was a legal duty to disclose imposed by statute, regulation, or government form”).

Respectfully submitted,

JESSIE K. LIU
UNITED STATES ATTORNEY

By: /s/ Molly Gaston
FERNANDO CAMPOAMOR-SÁNCHEZ (DC 451210)
MOLLY GASTON (VA 78506)
Assistant United States Attorneys
United States Attorney’s Office
555 Fourth Street, N.W.
Washington, D.C. 20530
Telephone: 202-252-7698/202-252-7803
Fernando.Campoamor-Sanchez@usdoj.gov
Molly.Gaston@usdoj.gov

JOHN C. DEMERS
ASSISTANT ATTORNEY GENERAL

By: /s/ Jason B.A. McCullough
JASON B.A. MCCULLOUGH (DC 998006; NY 4544953)
Trial Attorney
Department of Justice
National Security Division
950 Pennsylvania Ave NW
Washington, D.C. 20530

Telephone: 202-616-1051
Jason.McCullough@usdoj.gov

Dated: August 15, 2019

Certificate of Service

I certify that, by virtue of the Court's ECF system, a copy of the foregoing has been sent to counsel for the defendant on August 15, 2019.

/s/ Molly Gaston
Molly Gaston
Assistant United States Attorney